THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.23250 OF 2005

ORDER:

The Writ Petitioner was elected as member of the Managing Committee of the 3rd respondent-Society in the elections held on 22.10.2005. It is not in dispute that total 13 (thirteen) members have been elected to the Committee and the election of the office bearers of the Society was scheduled to be conducted on 24.10.2005. The petitioner claims that out of the 13 elected members, 7 (seven) members, including the petitioner were present on 24.10.2005 and the 2nd respondent-Election Officer having received the nomination of the petitioner for the post of President issued an acknowledgement. He also claims that his nomination was the only valid nomination for the post of the President, as can be seen from the list of valid nominations published by the 2nd respondent in Form-XIV on 24.10.2005 itself. However, the petitioner alleges that the 2nd respondent- Election Officer, has illegally postponed the meeting for the election of the office bearers and failed to declare the petitioner as elected. Hence, this Writ Petition seeking a declaration that the action of the 2nd respondent in not declaring the petitioner as the President of the 3rd respondent-Society in the meeting held on 24.10.2005 as arbitrary and illegal.

On behalf of the respondents 1 and 2, a counter-affidavit has been filed by the Joint Registrar- District Co-operative Officer and Additional Election Authority, Vizianagaram, stating that on 24.10.2005 when the Election Officer entered the Society there were about 50 people present in and around the Society premises and some people, who were proclaiming themselves as committee members, started shouting slogans; that the Writ Petitioner was the President and one Ganireddi Jaganadham was the Vice President. They also took some nomination forms forcibly and filled them up and obtained acknowledgment forcibly from the Election Officer. They also refused to sign in the Minutes Book. After they left the premises without signing, the Election Officer realized that there was no quorum to conduct the proceedings, and therefore, he has not taken up further action on the nominations filed under criminal intimidation. Immediately, he submitted a report stating that there was no quorum to take up the proceedings, and as such, the

meeting was adjourned to the next day i.e., 25.10.2005. Having received the said report, the 1st respondent – vide proceedings dated 25.10.2005, in exercise of the power conferred on him by Rule 22(12)(b) of the Andhra Pradesh Co-operative Societies Rules, 1964, (for short "the Rules"), postponed the election of the office bearers until further orders. He has also addressed a letter to the Commissioner for Co-operation and Registrar of Co-operative Societies, Andhra Pradesh, Hyderabad, seeking clarification in the matter. In response to the same, the Commissioner for Co-operation by letter dated 26.10.2005 clarified that acceptance of nominations by the Election Officer in the absence of quorum was erroneous and that obtaining attendance in the Minutes Book is the foremost duty of the Election Officer before commencement of the proceedings. It was also clarified that while conducting the Committee Meeting, nominations are to be taken afresh since acceptance of nominations earlier in the absence of quorum was erroneous, and accordingly, instructed to convene a meeting afresh as early as possible. In pursuance thereof, the 1st respondent vide proceedings dated 27.10.2005, ordered for conduct of fresh elections on 31.10.2005, which was stayed by this Court by interim order dated 28.10.2005 granted in this Writ Petition.

It is also relevant to note that subsequently seven members of the Society got themselves impleaded to the Writ Petition as respondents 4 to 10, stating that they are validly elected members of the Managing Committee in the elections held on 22.10.2005 and that on 24.10.2005 when they went to the office of the Society they were prevented to attend the meeting. It was also alleged that out of the seven persons said to have attending the meeting on 24.10.2005, one person has impersonated himself as Ganireddi Jagannadham i.e. the 5th impleaded respondent, with an oblique motive to get the petitioner elected as the President. The Election Officer came to know of the said facts only after he acknowledged the nominations submitted by the petitioner. He also realized that since only six members out of 13 members of the committee attended the meting there was no quorum to hold the meeting, and accordingly, he has postponed it to 25.10.2005. Thus, it was contended by the impleaded respondents that the plea of the petitioner that his nomination was the only valid nomination for the post of President and the Election Officer failed to declare him as elected was not correct and cannot be accepted.

I have heard the learned counsel for both the parties and perused the material on record.

It is to be noted that Rule 22(12) of the A.P. Co-operative Societies Rules, 1964 provides for election of the office bearers of the Society. As per the said Rule, as soon as the members of the Managing Committee have been elected, the Election Officer shall convene a meeting of the newly constituted Managing Committee for the purpose of election of President or Vice President, Chairman or Vice-Chairman, Secretary or other office bearers of the Society, by whatever name they are called. Further, such meeting shall be held not later than three days from the date of election of the members of the Managing Committee. Clause (b) of sub-rule (12) of Rule 22 also provides that the Election Officer shall issue a notice in Form-XIII to all the directly elected members of the Managing Committee calling upon them to elect the officer bearers of the Society. On the appointed day, nominations shall be received between 9.00 to 11.00 hours and that at 11.30 a.m. the Election Officer shall scrutinize the nominations and put up the list of valid nominations on the notice board of the Society. The withdrawals shall be permitted between 12.00 to 14.00 hours, final list of contesting candidates shall be published at 14.30 hours by the Election Officer, and thereafter, results shall be declared.

It is also relevant to note that under Rule 23, quorum for a meeting of the Committee has been prescribed as the majority of the total members of the committee. In the case on hand, since 13 members have been elected as members of the Managing Committee, the majority shall be 7 members. Whereas the petitioner claims that on 24.10.2005 seven members of the Managing Committee attended the meeting and out of them the petitioner has filed his nomination for the post of the President, the specific case of the Election Officer was that on that day only six members were present, and therefore, there was no quorum as prescribed under Rule 23 of the Rules. It is also the specific case of the respondents that one person has impersonated himself as an elected member by name Jagannadham and they wanted to make out a case that as if seven members were present so as to satisfy the required quorum. The 2nd respondent-Election Officer, having realized the same has submitted a detailed report to the Election Authority and postponed the election to the next day.

The fact that seven members out of the thirteen elected members of the Managing Committee got themselves impleaded to this Writ Petition as respondents 4 to 10, including the person by name Jagannadham, shows that the said seven

members were not present on 24.10.2005. Therefore, evidently there was no quorum on 24.10.2005 to conduct the meeting for the purpose of election of the officer bearers.

That apart, the affidavit filed on behalf of the official respondents also makes it clear that the Election Officer was subjected to criminal intimidation and was compelled to acknowledge the nomination filed by the petitioner. In the circumstances, merely because the Election Officer has published the list of valid nominations under Form-XV, I am unable to hold that he was bound to declare the results, as required under Clause (b) of sub-rule (12) of Rule 12 of the Rules. The quorum as prescribed under Rule 23 of the Rules is mandatory and when the Election Officer has found that there was no quorum, the entire proceedings including acceptance of nominations, are liable to be declared as erroneous. In the circumstances, I find force in the contention of the learned counsel for the respondents that the action of the respondents 1 and 2 in postponing the election initially, and thereafter in proposing to recommence the election process from the stage of reconvening the meeting of the elected members of the Managing Committee, cannot be held to be either arbitrary or illegal. In my considered opinion the same is in accordance with the procedure prescribed under Rule 22 of the Rules.

The Writ Petition is devoid of any merit, and therefore, the same is dismissed. No costs.

It is needless to mention that the interim order granted on 28.10.2005 shall stand vacated.

16th November, 2005. _____

(**G. ROHINI, J)**

Furnish CC in two days.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.23250 OF 2005

16th November, 2005

Between:

K. Surya Rao. .. Petitioner.

And

The Election Authority and District

Collector, Vizianagaram and others. .. Respondents.